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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,950	06/11/2001	Henry L. Sanders	MS1-771US	3587
22801	7590	05/18/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			WU, QING YUAN	
			ART UNIT	PAPER NUMBER
			2194	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/878,950

Applicant(s)

SANDERS ET AL.

Examiner

Qing-Yuan Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Information Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

**DETAILED ACTION**

1. Claims 1-11 and 13-24 are pending in the application.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is providing the request to the identified appropriate user-mode process which is not a tangible result because there is no indication that the step of providing require the use of hardware to accomplish the step. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Bayeh (U.S. Patent 6,223,202).

6. As to claim 1, Bayeh teaches the invention substantially as claimed including a method comprising:

receiving a request from a client device, the request comprising a hierarchical identifier [col. 8, lines 21-27];

comparing the hierarchical identifier with at least a portion of a configuration file to identify the appropriate user-mode process for handling the request [col. 8, lines 41-44; col. 9, lines 37-40; col. 10, lines 41-47]; and

providing the request to the identified appropriate user-mode process [col. 8, lines 44-46; col. 9, lines 41-43].

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-11 and 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayeh as applied to claim 1 above, in view of Benitez (U.S. PG Pub 20020161908).

9. Benitez was cited in the last office action.

10. As to claim 13, this claim is rejected for the same reason as claim 1 above. In addition, Bayeh does not specifically teach performing the above function of comparing and providing by a kernel-mode process in a server device. However, Benitez disclosed the advantage of kernel-mode approach over the less efficient user-mode approach [Benitez, pg. 10, right col., line 58 to pg. 11 left col., line 7; 804, Fig. 8; 902, 905, Fig.9].

11. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have combine the teaching of Bayeh and Benitez because of the advantage of a powerful/efficient pure kernel-mode implementation of handling requests over the less efficient user-mode approach as being considered by Benitez.

12. As to claims 14-16, these claims are rejected as claims 1 and 13 above, in addition Bayeh and Benitez do not specifically teach a user-mode administrative process, providing a configuration store suitable for access by the user-mode administrative process. However, Bayeh disclosed defining URL masks [col. 9, lines 43-44], matching URL masks that indicate the request should be sent to the application queue in a particular virtual machine [col. 9, lines 40-43]. And, Benitez disclosed a spoof database being generated by a kernel-mode process (i.e. a client file spoofer), where access/request to a matching entry in the spoof database is directed by the client file spoofer to a remote system to handle the request [Benitez, pg. 8, lines 12-20]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that Bayeh and Benitez's system could be implemented in an alternative user-mode with the advantage of easier development and debugging as being considered in Benitez.

13. As to claim 17, Bayeh teaches the invention substantially as claimed including providing a non-shared interface between the kernel-mode process and the identified most applicable user-mode process [col. 10, lines 44-47].

14. As to claim 18, Bayeh as modified does not specifically teach selectively queuing the client device generated request prior to providing the request to the identified most applicable user-mode process. However, Bayeh disclosed queuing requests prior to assigning them to available servlets, and Benitez disclosed a caching system that will reduce the number of requests when there is a hit in the cache [1309, Fig. 13; Benitez, pg. 11, left col., lines 47-50]. It

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would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that an overflow of requests can cause the system to be unstable or a reduction in its robustness, and queuing requests until it is ready to be handled provides an alternative to reducing number of requests and lowering the workload to a user-mode process.

15. As to claim 19, this claim is rejected for the same reason as claims 1 and 13 above.

16. As to claims 20-21, Bayeh as modified teaches the invention substantially as claimed including wherein the most applicable user-mode process includes a user-mode web server process and wherein the most applicable user-mode process includes at least one user-mode worker process [col. 2, lines 27-35].

17. As to claims 22-23, Bayeh as modified teaches the invention substantially as claimed including receiving the client device generated request using a kernel-mode communication protocol process, wherein the kernel-mode communication protocol process includes a kernel-mode TCP/IP process [col. 8, lines 52-56]; and providing the client device generated request to the kernel-mode process [Benitez, pg. 10, right col., lines 50-52].

18. As to claim 24, Bayeh as modified teaches the invention substantially as claimed including causing the identified most applicable user-mode process to handle the client device generated request [col. 10, lines 49-55].

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19. As to claims 2-11, these claims are rejected for the same reason as claims 13-24 above.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qing-Yuan Wu

Examiner

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WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER